

July 13, 2005

The Honorable Robert Bunda, President
and Members of the Senate
Twenty-Third State Legislature
State Capitol, Room 003
Honolulu, Hawaii 96813

Dear Mr. President and Members of the Senate:

Re: House Bill No. 1051 HD2 SD2 CD1

On July 12, 2005, House Bill No. 1051, entitled "Relating to Prescription Drugs" became law without my signature, pursuant to Section 16 of Article III of the Constitution of the State of Hawaii.

The purpose of this bill is to provide that any physician who treats a Medicaid recipient patient suffering from the human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), or hepatitis C, or a patient in need of transplant immunosuppressives, may prescribe any medication that is approved by the United States Food and Drug Administration and that is eligible for Omnibus Budget Reconciliation Act (OBRA) rebates, which is necessary to treat the condition, without the requirement of any preauthorization procedure.

The objectives of the bill are laudable. It is vitally important to get the correct medicines to HIV/AIDS, hepatitis, and transplant patients as promptly as possible. However, the bill poses several serious concerns.

First, unrestricted access for Medicaid-eligible patients will have a fiscal impact on the State. Preauthorization lists and formularies are seen as a method to foster the effective and efficient use of pharmaceutical resources. The Department of Human Services estimates this legislation will increase the State's annual drug expenditures and adversely impact other drug-related programs.

While unrestricted access has cost implications, prior authorizations, even when they are carefully and scientifically developed, also pose problems. The ability to get the appropriate drug to the patient on a timely basis in the right amount cannot always be predetermined from a list of medications. The health industry is moving toward quality access to medications which incorporate best practices for prescribing at the national level.

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This Administration will continue to work with the health industry to develop quality access standards for both Medicaid-eligible patients and those under managed care programs such as QUEST.

Second, it should be noted that this bill does not address drug access for HIV/AIDS, hepatitis, and transplant patients covered by QUEST, thus creating two differing access arrangements for persons who are eligible for State-sponsored medical plans.

For the reasons set forth above, the bill is less than perfect. Nevertheless, the goal of the bill to ensure that HIV/AIDS, hepatitis, and transplant patients receive appropriate medication is one to which I am committed.

Therefore, I allowed House Bill No. 1051 HD2 SD2 CD1 to become law as Act 241 effective July 12, 2005, without my signature.

Sincerely,

LINDA LINGLE